

REMARKS

The present application has been reviewed in light of the Office Action dated August 13, 2009. Claims 1-27 are currently pending, of which claims 1, 17 and 22 have been amended herein. In view of the amendments above and the remarks to follow, Applicant respectfully requests reconsideration and allowance of this application.

Claims 1-6, 8-15, 17-19 and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,206,913 to Yencho et al. (hereinafter Yencho). Applicant respectfully submits that each of independent claims 1, 17 and 22 is allowable over Yencho because Yencho fails to disclose each and every feature of independent claims 1, 17 and 22. Accordingly the rejection of independent claims 1, 17 and 22, under 35 U.S.C. § 102(b) should be withdrawn.

Pursuant to 35 U.S.C. § 102, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131. Applicant respectfully submits that Yencho fails to disclose each and every element recited in each of claims 1, 17 and 22 as required by 35 U.S.C. § 102.

Independent claim 1 recites an apparatus for performing a surgical anastomosis including, *inter alia*, “a locking member configured and dimensioned to be received in [a] passage of [an] annular body... wherein movement of the locking member into the passage... induces movement of the annular body... between an unexpanded configuration and a radially expanded configuration.” Independent claim 1 further recites that the locking member is “maintained in the annular body to maintain the annular body in the expanded configuration.”

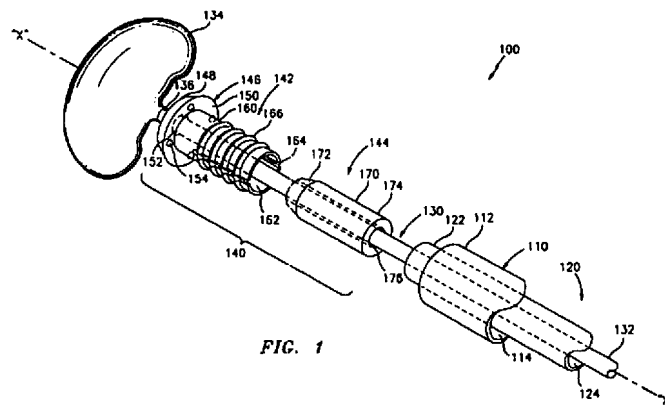


FIG. 1

The embodiment of apparatus 100 depicted in FIG. 1 reproduced above includes a locking member 144 that is configured and dimensioned to be received in passage 162 of annular body 160. As described in paragraph [0058] of the Applicant's specification, "by driving locking member 144 forward, distal end 172 of locking member 144 enters central opening 162 of annular body 160. Further advancement. . . causes the proximal end of annular body 160 to ride or be cammed along distal end 172 to thereby deflect the proximal end of annular body 160 radially outward." Thus, movement of the locking member 144 into the passage 162 induces movement of the annular body 160 to a radially expanded configuration as depicted in FIG. 3C below.

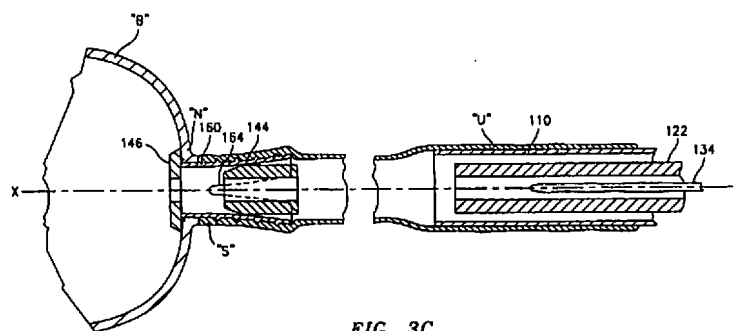
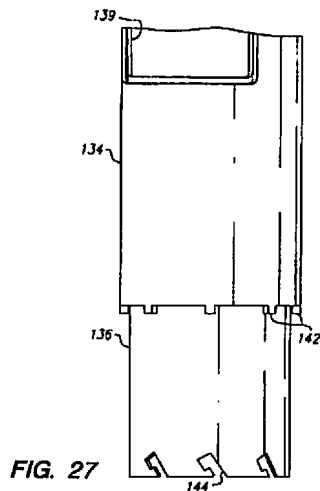
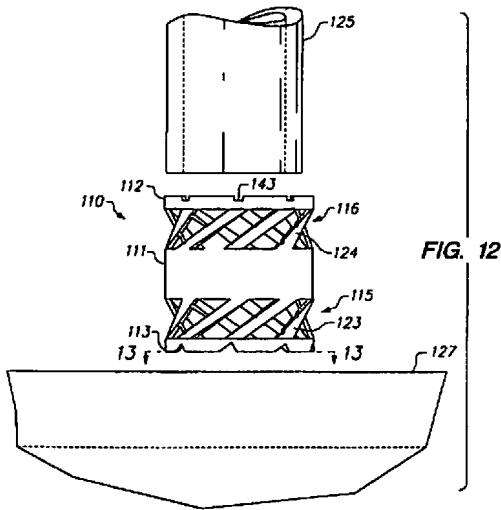


FIG. 3C

As described in paragraph [0059] of the Applicant's specification, with the locking member 144 frictionally secured within the passage 162, a positioning tube 120 may be withdrawn. The locking member 144 is maintained in the passage 162 to maintain the annular body 160 in the radially expanded configuration depicted above in FIG. 3C. Thus, the locking member 144 of Applicant's disclosure serves to both expand the annular body 160 and to maintain the annular body 160 in the radially expanded configuration in accordance with independent claim 1.

In contrast, Yencho discloses a system for attaching a graft vessel 125 to a target blood vessel 127 by applying a large vessel stent 110 (see FIG. 12 reproduced below). The stent 110 includes a cylindrical body 111, a distal deformable section 115 and a proximal deformable section 116. As illustrated in FIG. 15 and 29 below, distal deformable section 115 radially expands to form a distal end flange 121 and proximal deformable section 116 radially expands to form a proximal flange 122.



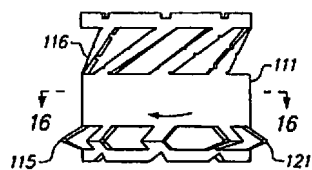


FIG. 15

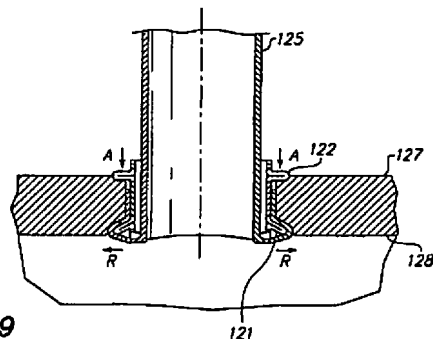


FIG. 29

As described at col. 10, lines 34-36 of Yencho, the “flanges 121, 122 are deployed by circumferentially rotating the proximal end of the stent body relative to the distal end of the stent body.” An applicator 131 is provided for rotating the distal end of the stent 110 relative to the proximal end of the stent 110. The applicator 131 includes an outer tubular member 134 and an inner tubular member 136 (see FIG. 27 reproduced above and FIG. 28G below). The inner tubular member 136 may be rotated within the outer tubular member 134 to deploy the stent 110. (see, e.g., Col. 10, lines 26 through 36; Col. 12, line 66 through Col. 13, line 18).

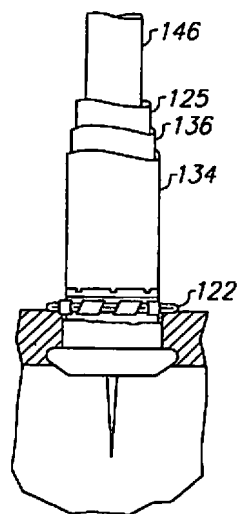


FIG. 28G

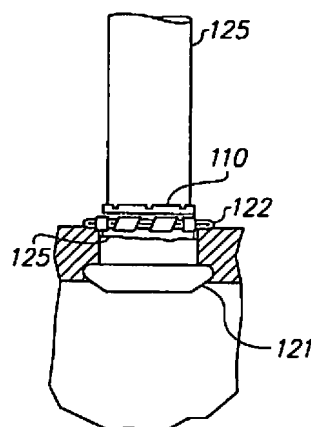


FIG. 28H

Once the stent 110 has been deployed (FIG. 28G), the applicator 131 is removed (FIG. 28H) from the target vessel 127 leaving the graft vessel connected thereto (see col. 13). As illustrated in FIG. 28H, the deformable sections 115, 116 are configured to maintain the shape of flanges 121, 122 even after the applicator 131 is removed. Thus, the applicator 131 serves only to form the flanges 121, 122 and not to maintain the flanges 121, 122 in an expanded configuration.

The Office Action asserts that the cylindrical body 111 of stent 110 may serve as a locking member since upon insertion of the cylindrical body 111 into a passage defined by flange member 122, the flange member 122 is movable between an unexpanded configuration and an expanded configuration. (See page 3.) Applicant respectfully submits, however, that the cylindrical body 111 of Yencho is not inserted into the flange member 122 to cause expansion as required by independent claim 1. Yencho is clear that the applicator 131, is rotated to move the flange member 122 between the unexpanded and expanded configurations as described above.

In view of the foregoing, Applicant respectfully submits that each and every feature of independent claim 1 is not taught or disclosed by Yencho in that Yencho fails to teach or disclose a locking member “wherein movement of the locking member into the passage of the annular body ... induces movement of the annular body... between an unexpanded configuration and a radially expanded configuration,” and wherein the locking member “maintain[s] the annular body in the expanded configuration.” Accordingly, Applicant respectfully submits that independent claim 1 is patently distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b).

As claims 2-6 and 8-15 depend, directly or indirectly, from claim 1 and contain all of the features of independent claim 1, Applicant respectfully submits that claims 2-6 and 8-15 are also allowable over Yencho under 35 U.S.C. § 102(b).

Independent claim 17 recites a method for performing a surgical anastomosis including the step of, *inter alia*, providing a locking member that is “configured and adapted to radially deflect the expandable annular body upon insertion of the locking member within the passage of the annular body and to maintain the expandable annular body in the radially deflected configuration when the locking member is received in the passage of the flange member.” As discussed above with reference to claim 1, neither the applicator 131 nor cylindrical body 111 of Yencho is adapted to both radially deflect an annular body and to maintain the annular body in the radially deflected configuration.

Accordingly, Applicant respectfully submits that independent claim 17 is patently distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b). As claims 18-19 depend, directly or indirectly, from claim 17 and contain all of the features of independent claim 17, Applicant respectfully submits that claims 18-19 are also allowable over Yencho under 35 U.S.C. § 102(b).

Independent claim 22 recites a “locking member being configured and adapted to radially deflect the expandable annular body upon maintained engagement of the locking member within the passage of the annular body.” As discussed above with reference to claim 1, the applicator 131 of Yencho is configured to engage the stent 110 to radially deflect the flange member 122. However,

the engagement of the applicator 131 and the stent 110 is not “maintained” as recited in independent claim 22. Applicant notes that although the cylindrical body 111 of Yencho is maintained in the target vessel 127, the cylindrical body 111 is not “adapted to radially deflect” the flange 122 as required by independent claim 22.

Accordingly, Applicant respectfully submits that independent claim 22 is patentably distinguishable over Yencho, and therefore allowable over Yencho under 35 U.S.C. § 102(b). As claims 23-25 depend, directly or indirectly, from claim 22 and contain all of the features of independent claim 22, Applicant respectfully submits that claims 23-25 are also allowable over Yencho under 35 U.S.C. § 102(b).

Claim 16 stands rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 6,629,988 to Weadock. Applicant submits that claim 16 is allowable under 35 U.S.C. § 103(a) over Yencho in view of Weadock.

The Examiner relies on Weadock for the disclosure of an anchoring assembly made from a bio-absorbable material. Weadock relates generally to an anastomosis type staple. Applicant submits that even if Weadock does disclose an anastomosis type staple (e.g., anchoring assembly) made from bio-absorbable materials, Weadock fails to cure the deficiencies of Yencho in that Weadock does not disclose a locking member for both deflecting and maintaining an annular body in an a radially deflected configuration as recited in independent claim 1.

Accordingly, in view of the foregoing, since Weadock fails to cure the deficiencies of Yencho, Applicant submits that the subject matter of claim 16 as a whole is allowable under 35 U.S.C. § 103(a) over Yencho in view of Weadock.

Claims 7, and 26-27 stand rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 6,206,913 to Evard et al. (Applicant presumes that the Examiner intended to refer to 6,616,675 to Evard et al.). Applicant submits that claims 7, and 26-27 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Evard.

The Examiner relies on Evard for the disclosure of a cylindrical body with a taper. Evard relates to various anastomotic connectors and apparatus for forming and/or maintaining connections between openings formed in anatomical structures. However, Applicant submits that even if Evard does disclose a cylindrical member between two flanges wherein the cylindrical body tapers, as recited in claims 7 and 26-27, Evard fails to cure the deficiencies of Yencho in that Evard does not disclose a locking member arrangement, as recited in independent claims 1 and 22.

Accordingly, in view of the foregoing, since Evard fails to cure the deficiencies of Yencho, Applicant submits that the subject matter of claims 7 and 26-27 as a whole are allowable under 35 U.S.C. § 103(a) over Yencho in view of Evard.

Claims 20-21 stand rejected under 35 U.S.C. § 103(a) over Yencho in view of U.S. Patent No. 5,591,179 to Edelstein. Applicant submits that claims 20-21 are allowable under 35 U.S.C. § 103(a) over Yencho in view of Edelstein.

The Examiner relies on Edelstein for the disclosure of a technique of anastomosis in radical prostatectomy. Edelstein relates to a device for deploying a needle and suture to suture the urethral stump and bladder to one another. Applicant submits, however, that even if Edelstein does disclose a device for deploying a needle and suture to suture the urethral stump and bladder to one another, Edelstein fails to cure the deficiencies of Yencho in that Edelstein does not disclose providing a locking member adapted to both radially deflect an annular body and to maintain the annular body in the radially deflected configuration in accordance with independent claim 17 from which claims 20-21 depend.

Accordingly, in view of the foregoing, since Edelstein fails to cure the deficiencies of Yencho, Applicant submits that the subject matter of claims 20-21 as a whole are allowable under 35 U.S.C. § 103(a) over Yencho in view of Edelstein.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in this application, namely Claims 1-27, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he or she is respectfully requested to contact Applicant's attorney at the number indicated below.

Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 21-0550. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 21-0550 therefor.

An early and favorable response on the merits is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Francesco Sardone', is written over a horizontal line.

Francesco Sardone
Reg. No. 47,918
Attorney for Applicants(s)

CARTER, DeLUCA, FARRELL & SCHMIDT, LLP

445 Broad Hollow Road, Suite 420

Melville, New York 11747

Phone: (631) 501-5700

Fax: (631) 501-3526

FS:jy